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SENATE BILL 424

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO OIL AND GAS; PROVIDING FOR FINANCIAL ASSURANCE TO
PLUG WELLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 70-2-14 NMSA 1978 (being Laws 1977,
Chapter 237, Section 3, as amended) is amended to read:

"70-2-14. REQUIREMENT FOR FINANCIAL ASSURANCE. --

A. Each person, firm, corporation or association
who operates any oil, gas or service well within the state
shall, as a condition precedent to drilling or producing the
well, furnish financial assurance in the form of an irrevocable
letter of credit or a cash or surety bond or a well-specific
plugging insurance policy pursuant to the provisions of this
section to the oil conservation division of the energy,
minerals and natural resources department running to the

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1 benefit of the state and conditioned that the well be plugged
2 and abandoned in compliance with the rules of the oil
3 conservation division. The oil conservation division shall
4 establish categories of financial assurance after notice and
5 hearing. Such categories shall include a blanket plugging
6 financial assurance in an amount not to exceed fifty thousand
7 dollars (\$50,000) and one-well plugging financial assurance in
8 amounts determined sufficient to reasonably pay the cost of
9 plugging the wells covered by the financial assurance. In
10 establishing categories of financial assurance, the oil
11 conservation division shall consider the depth of the well
12 involved, the length of time since the well was produced, the
13 cost of plugging similar wells and such other factors as the
14 oil conservation division deems relevant. In addition to the
15 blanket plugging financial assurance, the oil conservation
16 division may require a one-well financial assurance on any well
17 that has been held in a temporarily abandoned status for more
18 than two years. All financial assurance shall remain in force
19 until released by the oil conservation division. The oil
20 conservation division shall release financial assurance when it
21 is satisfied the conditions of the financial assurance have
22 been fully performed.

23 B. If any of the requirements of the Oil and Gas
24 Act or the rules promulgated pursuant to that act have not been
25 complied with, the oil conservation division, after notice and

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1 hearing, may order any well plugged and abandoned by the
2 operator or surety or both in accordance with division rules.
3 If the order is not complied with in the time period set out in
4 the order, the financial assurance shall be forfeited.

5 C. When any financial assurance is forfeited pursuant
6 to the provisions of the Oil and Gas Act or rules promulgated
7 pursuant to that act, the director of the oil conservation
8 division shall give notice to the attorney general, who shall
9 collect the forfeiture without delay.

10 D. All forfeitures shall be deposited in the state
11 treasury in the oil and gas reclamation fund.

12 E. When the financial assurance proves insufficient
13 to cover the cost of plugging oil and gas wells on land other
14 than federal land and funds must be expended from the oil and
15 gas reclamation fund to meet the additional expenses, the oil
16 conservation division is authorized to bring suit against the
17 operator in the district court of the county in which the well
18 is located for indemnification for all costs incurred by the
19 oil conservation division in plugging the well. All funds
20 collected pursuant to a judgment in a suit for indemnification
21 brought under the provisions of this section shall be deposited
22 in the oil and gas reclamation fund.

23 F. An operator required to file financial assurance
24 for a well pursuant to this section is considered to have met
25 that requirement if the operator obtains a plugging insurance

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1 policy that includes the specific well and that:

2 (1) is approved by the insurance division of the
3 public regulation commission;

4 (2) names the state of New Mexico as owner of
5 the policy and contingent beneficiary;

6 (3) names a primary beneficiary who agrees to
7 plug the specified wellbore;

8 (4) is fully prepaid and cannot be canceled or
9 surrendered;

10 (5) provides that the policy continues in effect
11 until the specified wellbore has been plugged;

12 (6) provides that benefits will be paid when,
13 but not before, the specified wellbore has been plugged in
14 accordance with rules of the oil conservation division in
15 effect at the time of plugging; and

16 (7) provides benefits that are not less than an
17 amount equal to the one-well financial assurance required by
18 oil conservation division rules.

19 G. If, subsequent to an operator obtaining an
20 insurance policy as provided in this section, the one-well
21 financial assurance requirement applicable to the operator's
22 well is increased, either because the well is deepened or the
23 rules of the oil conservation division are amended, the
24 operator is considered to have met the revised requirement if:

25 (1) the existing policy benefit equals or

1 exceeds the revised requirement;

2 (2) the operator obtains an amendment increasing
3 the policy benefit by the amount of the increase in the
4 applicable financial assurance requirement; or

5 (3) the operator obtains financial assurance
6 equal to the amount, if any, by which the revised requirement
7 exceeds the policy benefit. "

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